

## The complaint

Mr J complains that Volkswagen Financial Services (UK) Limited trading as Porsche Financial Services (VWFS) unfairly charged him for excess mileage after he voluntarily terminated a hire purchase agreement.

## What happened

In August 2022, Mr J was supplied with a used car through a hire purchase agreement with VWFS. The cash price of the car was £68,795. He made an advance payment of £805 and the agreement was for £67,990 over 48 months; with 47 monthly payments of £1,167.57 and a final payment of £27,882.50. At the time of supply, the car was around five years old and had travelled 35,445 miles.

The agreement set out that Mr J had an annual mileage allowance of 10,000 and a maximum total mileage of 75,445. It said that if he exceeded this allowance, VWFS could apply an excess mileage charge of 33.9p for each additional mile. It said that if the agreement was terminated early, the maximum total mileage would be reduced proportionately to reflect the actual period of use – which would be used to calculate any excess mileage charge.

In January 2025, Mr J chose to exercise his right to terminate the agreement early. The agreement set out that before this could happen, VWFS was entitled to the return of the car and to half of the total amount payable under the agreement – which was £41,786.64 – less any amounts already paid by Mr J. The sums already paid under the agreement left a shortfall of £7,122.11. Mr J paid this amount to bring the agreement to a close and the car was collected by VWFS. After inspecting the car, it said Mr J had exceeded the maximum mileage allowed under the agreement, so needed to pay a further £5,607.38.

Mr J made a complaint. He said the total contracted mileage was 75,445 – and he'd only travelled slightly more than that, so didn't think the charge was fair. He didn't think VWFS made it clear enough to him that he might need to pay an excess mileage charge or how this would be calculated. He didn't think the terms of the agreement allowed VWFS to apply such a charge – as they suggested he was liable for a maximum of £41,786.64 which he'd already paid. VWFS said the terms of the agreement allowed it to proportionately adjust the total mileage allowance and apply a charge on that basis. It said the pro-rated mileage allowance was 24,602.7 – which Mr J had exceeded by 16,570.3 miles.

The complaint was referred to this service. One of our Investigators considered the complaint but didn't uphold it. They were satisfied the excess mileage charge had been applied correctly in line with the agreement terms and the Consumer Credit Act 1974 (CCA). They also thought the agreement was clear about how the charge would be applied in the event of early termination. In summary, they said:

- S99 of the CCA sets out the right for a consumer to terminate a hire purchase agreement early, and S100 sets out their liabilities when doing so.
- In brief, on termination a consumer is liable to pay at least half of the 'total price' of

the agreement. 'Total price' is defined by S189 of the CCA as the total sum payable under the hire purchase agreement. It doesn't include charges for items that are payable as compensation for breach of an agreement. This means that any charges for breaches of the agreement are in addition to any liability for termination.

- S99 sets out that any liabilities that the consumer accrued prior to termination aren't to be affected by the termination.
- The agreement sets out that the excess mileage charges accrue with each mile covered in excess of the mileage allowance. The terms were clear that the charge accrued before termination and was therefore not affected by the termination.
- The terms of the agreement don't set out that exceeding the mileage allowance is a breach of the agreement, so the charges are therefore included in the total price of the agreement.
- So, the mileage charge accrued prior to termination and counted towards the total price of the agreement. Mr J's accrued liability under S100 therefore included the charge.
- The credit agreement set out the details of the excess mileage charge clearly, and was clear that it would be payable on voluntary termination of the agreement if the pro-rated mileage allowance had been exceeded.
- When considering the agreement as a whole, they were satisfied it was clear that the charge would be applied in addition to the voluntary termination charge. They were satisfied it was fair and reasonable for VWFS to apply the charge.

Mr J didn't agree. In summary, he didn't think VWFS had done enough to draw the charge to his attention before he decided to terminate the agreement. He said that if he was aware that an excess mileage charge would apply – or how it would be calculated – he would have postponed terminating the agreement for seven months and stopped using the car, which would have reduced the total amount due. He said he was under financial stress, and his main priority was to reduce the amount owed as much as possible. He offered to pay a maximum of £3,604 – which is how much he believes he'd have paid if he postponed the termination.

Our Investigator considered Mr J's comments but was satisfied VWFS did enough to tell him about the charge before he terminated the agreement. Mr J asked for the complaint to be referred to an Ombudsman for a final decision. So, it's been passed to me to decide.

### **What I've decided – and why**

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

Having done so, I've reached the same overall conclusions as the investigator, and for broadly the same reasons. If I haven't commented on any specific point, it's because I don't believe it's affected what I think is the right outcome. Where evidence has been incomplete or contradictory, I've reached my decision on the balance of probabilities – what I think is more likely than not to have happened given the available evidence and wider circumstances.

In considering this complaint I've had regard to the relevant law and regulations; any regulator's rules, guidance and standards, codes of practice, and (if appropriate) what I consider was good industry practice at the time. Mr J was supplied with a car under a hire purchase agreement. This is a regulated consumer credit agreement which means I can consider a complaint about it.

The terms of the hire purchase agreement allowed Mr J to use the car for the duration of that agreement. This use was subject to certain conditions, such as maintaining and taking care of the car, and only driving a maximum mileage each year and throughout the life of the agreement. The agreement set out what would happen if Mr J didn't meet those requirements.

The CCA sets out the right customers have to voluntarily terminate hire purchase agreements, and their liability when doing so. The agreement sets out that if terminated early, VWFS would be entitled to the return of the car and £41,786.64. The agreement also set out that an excess mileage charge of 33.9p per mile would apply if either the annual or total mileage was exceeded – and that this charge was due in addition to the voluntary termination liability.

S99 sets out that any liabilities which accrue prior to termination aren't affected by the termination. This means Mr J is liable to pay any charges which have built up prior to the termination of the agreement, and that these charges are in addition to the other liability for early termination. Section 11.1 of the agreement outlines:

*“If the Vehicle covers more than:*

- *the Maximum Annual Mileage in any succeeding period of 12 months starting from the making of this agreement; and/or*
- *the Maximum Total Mileage;*

*you will be liable to pay us the Excess Mileage Charge shown on page 1. That liability will accrue with each mile covered by the Vehicle in excess of those Mileages. You must discharge that liability by paying us the charge on demand.”*

Based on this, I'm satisfied that any excess mileage charge applicable under the agreement will have accrued prior to termination. It follows that Mr J is liable to pay a charge in the event that the annual or maximum total mileage is exceeded - and that this is consistent with what is allowed to be charged under S99 of the CCA.

Mr J says the calculation of the excess mileage charge wasn't properly explained to him – either in the terms of the agreement itself or by VWFS when he enquired about ending the agreement – and that he would have acted differently if aware of it.

The first page of Mr J's agreement contains a section headed 'Excess Mileage Charge', which states:

*“The maximum annual mileage is 10000 and the maximum total mileage is 75445. If you exceed the maximum annual or total mileage, you will be liable to pay an Excess Mileage Charge in addition to any other sums owed by you under this Agreement from time-to-time, including those amounts specified below under the heading “Termination: Your Rights”. (...) The Excess Mileage Charge payable pursuant to clause 11 of the Terms is 33.9p (incl. VAT) per mile.”*

I'm satisfied the excess mileage charge is set out clearly. The section immediately below this is headed 'Termination: Your Rights'. This section contains specific wording which VWFS was required to include, and in summary sets out that if Mr J has paid at least half the total amount payable he won't have to pay anymore. I've considered whether this conflicts with the rest of the agreement, specifically the excess mileage charge section – and I don't think it does. The excess mileage charge is prominently explained directly above the termination section and sets out that the charge is applied *in addition to* any other sums.

Having read all of the terms of the agreement as a whole, I don't think the agreement is either unclear or misleading concerning the charges for excess mileage. I think it explains that the excess mileage charge can be applied in addition to other charges for voluntary termination. While I can understand why Mr J believed the most he would have to pay was £41,786.64, I'm satisfied the agreement was clear enough that this wasn't the case.

Section 11 of the agreement sets out how the excess mileage charge is calculated and applied in more detail. Section 11.4 sets out:

*"If this agreement terminates early, we will reduce the Maximum Total Mileage in the proportion which the actual period of hire bears to the period of hire originally agreed. Any Excess Mileage Charge will be recalculated using that reduced Maximum Total Mileage."*

11.5 goes on to reiterate that this charge is payable in addition to any other sums – including amounts due on early termination. Overall, I'm satisfied the terms clearly set out how ending the agreement early would impact the calculation of the excess mileage charge. VWFS calculated the charge based on the pro-rata mileage accrued up to the date the agreement was terminated – and I'm satisfied it did so in line with the above terms.

I've gone on to consider what Mr J was told when he enquired about terminating the agreement. Mr J says, in summary, that he wasn't asked about the mileage when he spoke to VWFS or warned that an excess mileage charge would apply – and that he wouldn't have terminated the agreement at that point if aware of this.

Mr J initially contacted VWFS by phone to ask for a voluntary termination quote. He was quoted £7,122.11 – and was sent a voluntary termination pack along with a form to return. The covering letter included the following wording:

*"We will send you a Voluntary Termination confirmation letter detailing any shortfall payment due and outline your expected mileage to date – agreed mileage and excess mileage charges are detailed in your VWFS finance agreement."*

The letter went on to explain that the car would be inspected to assess its condition, and stated:

*"The inspection report will be forwarded to us in order for us to raise an invoice for any identified damage and excess mileage charges."*

Considering the above, I'm satisfied VWFS took reasonable steps to draw Mr J's attention of the possibility of an excess mileage charge before the agreement was terminated. Mr J was referred specifically to the agreement for details of the charge and how this would be calculated. I'm satisfied Mr J had a reasonable opportunity to check this before handing the car back.

Mr J says terminating the agreement when he did put him at a disadvantage. He says he could instead have continued to pay the agreement for an additional seven months while not using the car – by which time the pro-rated mileage allowance would have been sufficient to significantly reduce the excess mileage charge. He estimates that the charge would have been £3,604 had he done this. Mr J says VWFS had an obligation to draw this to his attention so he could make an informed decision.

I've considered what Mr J has said here. Having done so, I'm not persuaded VWFS has treated him unfairly. While I understand the point Mr J seeks to make regarding the possibility of minimising the total amount due, I have to consider that he told VWFS he no

longer wanted the car and wanted to terminate the agreement. I don't think VWFS would reasonably have foreseen that he might choose to continue to pay for the car for more than half a year without using it – especially if he was facing financial pressure as he suggests. I think it's fair to say that if a customer chose to keep a car and continue to make payments under an agreement such as this, it would usually be with the intention of using the car. Ultimately, Mr J chose to terminate the agreement. I'm satisfied he was reasonably made aware that he could be charged if he'd exceeded the annual mileage allowance and that he had enough information to make an informed decision on the matter.

I appreciate this will come as a disappointment to Mr J, but for the reasons I've explained I don't find that VWFS made an error or treated him unfairly by applying an excess mileage charge. So, I don't require it to waive or reduce the charge or do anything further.

I note that Mr J says he's facing financial pressure due to a change in his circumstances. I would remind VWFS of its obligations to treat Mr J fairly and with due consideration and forbearance when seeking to recover any funds due.

### **My final decision**

My final decision is that I don't uphold Mr J's complaint about Volkswagen Financial Services (UK) Limited trading as Porsche Financial Services.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr J to accept or reject my decision before 13 January 2026.

Stephen Billings  
**Ombudsman**